

**Planning and Zoning Commission Regular & Teleconference Meeting
October 14, 2020 @ 7:00pm**

In attendance were P&Z Chairman Pat Plocek; P&Z Secretary Marshall Gevinson; Commissioner Glen Faden; (via teleconference) Commissioner Cathy Scheck; Town Manager Debbie Botchie; GMB Representative Andrew Lyons, Jr.; and Town Clerk Matt Amerling. Commissioner Tim Roe was absent.

1. **CALL TO ORDER:** P&Z Chairman Pat Plocek called the meeting to order at 7:00 p.m.
2. **ROLL CALL:** P&Z Chairman Pat Plocek stated everyone was present except Commissioners Glen Faden and Tim Roe.
3. **PLEDGE OF ALLEGIANCE**

MOTION TO ENTER PUBLIC HEARING

P&Z Secretary Marshall Gevinson motioned to enter the public hearing at 7:02 p.m. P&Z Commissioner Cathy Scheck seconded the motion. Motion carried 3-0. P&Z Commissioner Glen Faden entered the meeting. Ms. Scheck abstained from the discussion.

4. **NEW BUSINESS**
 - A. Public Hearing Notice - Secretary
 - B. Written Comments

Ms. Botchie read the October 7, 2020, letter from the Millville by the Sea (MBTS) Home Owner Association (HOA) Board of Directors, consisting of Sand Dollar Village president Stephen Russ, Lakeside Village president Annette Batista, and Summerwind Village president Patricia Guilday; as well as the October 8, 2020, email from Ms. Diane Hoffman, of MBTS's Sea Star Village. Mr. Plocek stated each P&Z member received the letters read tonight.

- C. Discuss a revision to the preliminary subdivision site plan submitted by Civil Engineering Associates Inc. on behalf of Ardent Companies LLC, for the proposed Millville by the Sea's Peninsula Village subdivision located on Tax Map Parcels #134-16.00-03.02, 134-16.00-19.00, 134-16.00-20.00, and 134-15.00-121.00, zoned MPC, consisting of 46.48+/- acres.
Synopsis: The Preliminary Subdivision Site Plan for Peninsula Village was originally recommended for Council to approve by the Town P&Z at its December 11, 2017, meeting. The applicant is requesting to revise by adding 12 lots and removing the alleys.

Mr. Ron Sutton, of Civil Engineering Associates (CEA), stated he is representing the applicant, whose representative Rod Hart is in attendance tonight. Mr. Rod Hart, of Ardent Companies LLC, stated Ardent is an Atlanta-based company but they have a history in Sussex County as they've purchased and developed the Reserves in Ocean View, as well as Solitude at White's

Creek. Mr. Hart stated the company closed on September 30, 2020, as taking over development of Millville by the Sea (MBTS). Mr. Hart stated he lives in Annapolis but has a second home here, so he'll be here weekly, involved regularly. Mr. Hart stated his commitment to the residents and the Town is they are going to continue with the advisory board and have those regular meetings, as well as meeting with the village presidents, and their first meeting will be this Tuesday. Mr. Hart stated he wants to be transparent and be involved.

Mr. Sutton stated they are here tonight requesting re-approval of the preliminary plan for Peninsula Village, which was formerly known as Village One (1). Mr. Sutton stated the applicant received the original preliminary approval from the Town P&Z in December 2017, and since that time, the applicant has done a lot of engineering on the project. Mr. Sutton stated they received approvals from Sussex Conservation District (SCD), which deals with stormwater, erosion set-up and control; Tidewater Utilities, which is water; Sussex County Sewer; and the State Office of Drinking Water. Mr. Sutton stated they also had a couple of comments from the State Fire Marshal but they are currently addressing those comments. Mr. Sutton stated the applicant submitted to DelDOT and received comments from them around 2018, but the developer at the time decided not to move forward with addressing those DelDOT comments. Mr. Sutton stated there were a lot of significant issues with Substation Road and it was going to be pretty costly to redesign and get everything fixed for Substation Road. Mr. Sutton stated the new developer has agreed to move forward as they just had a progress meeting with DelDOT yesterday to address the 2018 comment letter, and DelDOT made some additional changes to what the applicant has to do. Mr. Sutton stated the applicant is moving forward with getting Substation Road re-engineered for access to Peninsula Village as well as the other areas left on Substation Road. Mr. Sutton stated if they get recommendation for approval tonight, the applicant has to re-engineer a few things and they have to get re-approvals from SCD, Tidewater, Sewer, Drinking Water, and Fire Marshal. Mr. Sutton stated the revised plan tonight includes one-hundred-twenty-nine (129) lots, whereas there was one-hundred-fifteen (115) on the last plan approved in 2017. Mr. Sutton stated the applicant still has the same big single family lots, which is thirty-one (31) single family lots, and twenty-two (22) villas now, which are the twin homes. Mr. Sutton stated they got rid of the twin lots and put up three (3) packed townhomes. Mr. Sutton stated the applicant also eliminated the parking areas and the alleyways behind these lots. Mr. Sutton stated they are still showing the area for the lap pool, and they removed the recreational vehicle (RV) and boat storage area. Mr. Sutton stated the Pep-Up tank expansion was always on the plans. Mr. Sutton stated the applicant is currently working on a few items at Millville one of which is the sewer extension all the way up to Summerwind which will continue down to Sea Star Village. Mr. Sutton stated they also received preliminary plan approval for the connector road a year-and-a-half ago; but before now, the previous developer put the brakes on everything.

Mr. Sutton stated they already have sewer in the ground through Calm Water Drive and it's a twenty-four (24)-inch diameter sewer which is very deep, and it crosses over to a tax ditch, runs through to Sea Breeze Village, which is currently under construction, and makes it way up to the Beebe Emergency Department (on Route 17). Mr. Sutton stated the sixteen (16)-inch water line is also in the ground. Mr. Sutton stated one of the other things discussed is the trail network and he knows they promised to keep the trail network open and Ardent is also committed to

keeping the trail network open. Mr. Sutton stated the network originally ran straight down the north of the pond which will tie into the original trail. Mr. Sutton stated stormwater management is the same as previously approved and the original idea was these ponds will be connected so you could kayak or canoe between them. Mr. Sutton stated the applicant will be discontinuing that aspect as it is too costly to build bridges and they don't really see a major benefit with having those ponds connected. Mr. Sutton further stated right now, the applicant is proposing pipes, which are called equalizer pipes, running between the ponds, and they are underwater so people won't see them. Mr. Sutton stated the ponds will maintain the same level so they will function as one (1). Mr. Sutton stated one of the other major changes here is the addition of yard drains for all lots backing up to other lots to try to eliminate any draining concerns which may arise in the future. Mr. Sutton stated the revised layout is pretty much identical in open space and there's actually a bit more open space since the applicant eliminated the parking and the alleyways behind the central units which added a lot impervious surface and a lot of runoff. Mr. Sutton stated by removing those aspects, the applicant added some extra overflow parking in particular areas and to the north; so the applicant is providing more parking than what is required per the Town Code. Mr. Sutton stated the mailbox cluster area will be very similar and built like what Sea Star Village currently has in place with the cover and the area with a picnic bench. Mr. Sutton stated there is a pull-off area, which accommodates three (3) cars right now, but there is additional parallel parking along the road so no one is taking away from the drive aisles.

Mr. Andrew Lyons Jr., of GMB, stated this is a resubmission of a revised preliminary plan and according to section one-twenty-five (125) of the Code, changes to the approved preliminary plan, the Planning & Zoning Commission (P&Z) cannot approve owner-requested changes to a submitted plan where the original number of lots have been increased without first holding a public hearing, recording their findings, and giving a full report and recommendation in writing to the Mayor and Council. Mr. Lyons stated he reviewed this plan, which first was reviewed since August 2017 by Council in partial form when the plans were preliminarily approved for the sewer to go in; and the sewers were to serve Sea Star Village Section Three (3). Mr. Lyons stated the water and sewer was added to go to Beebe in April and August 2018; and preliminary site plan approval for Peninsula Village was recommended for approval in December 2017 by P&Z. Mr. Lyons stated the major changes on these revised plans are going from one-hundred-fifteen (115) residential lots with two (2) miscellaneous lots to one-hundred-twenty-nine (129) total residential lots with one (1) miscellaneous lot; and the miscellaneous lots are the pool and the RV storage area. Mr. Lyons stated the townhouse numbers increased to seventy-six (76), and they reduced the villas down to twenty-two (22) from forty-eight (48). Mr. Lyons stated parking spaces have increased dramatically, partly due to the requirements of the extra lots, and those went from two-hundred-fifty-one (251) to three-hundred-eighty-seven (387). Mr. Lyons stated the mail kiosk and pull-off has been added – and was added quite a while ago – as it came in once the requirements for Sea Star Village were added by the postal service (USPS), and it needed to be done in all of MBTS. Mr. Lyons stated the kiosk and pull-off were designed under those minimum requirements. Mr. Lyons stated there is also a “T” turnaround which has been added to the end of Sand Bank Lane, and the six (6) alleyways which were in the area of South Tides Way and Sunfish Lane have been removed from the revised plans, leaving the passive open space which is a triangle area beside the townhomes and the passive open space between

the two (2) streets which are designated as alleyways for rear-loaded units. Mr. Lyons stated the pedestrian network on the approved MBTS master plan runs along Summerwind Boulevard so there is no connection between the two (2) villages – pedestrian-wise – besides Summerwind Boulevard. Mr. Lyons stated from what he was led to believe by the past developer, the trail there now is existing as proposed or temporary until Summerwind Boulevard is completed, which was a part of the approved master plan network of trails. Mr. Lyons stated the applicant is proposing to keep the pedestrian path between the two (2) villages to connect them.

Mr. Gevinson asked the size of the pool proposed as well as the parking facilities around the pool, and if the pool is the only amenity. Mr. Hart stated there is no current finalized design; there is a conceptual design for the pool which includes a really nice parking area but part of the reason they didn't show it in more detail on this revised plan was because the applicant didn't want to show the public and P&Z something only to have it change. Mr. Hart stated the applicant wants to have it finalized before presenting it and right now, it's just conceptual. Ms. Botchie stated she understands the pool area is conceptual but if P&Z recommends this to Council, will the applicant have the details on the final site plan? Mr. Hart stated yes. Mr. Faden asked, regarding the passive open space and green open space, if there is any consideration to being able to put in things which may benefit the homeowners there such as horseshoe pits, a pavilion with picnic tables and grills, resting benches along walking/bike trails, or a community garden. Mr. Faden asked if the pool will include a clubhouse. Mr. Hart stated the conceptual of the pool area just had a structure with a small bathhouse with changing rooms and bathrooms. Mr. Faden asked if it was tied into a pump house. Mr. Sutton stated they have sewer right out in front of it and a lateral sitting there. Mr. Faden asked about filtration of the pool in the area. Mr. Sutton stated yes, the filtration will be in the bathhouse and it will be very similar to what is in Sand Dollar Village. Mr. Faden stated regarding the modified bike trail located in the southwest part of the C-3 map, is it something which is to be in another plan? Mr. Sutton stated the path runs north from Sea Star Village which ties into the path, and the new trail along the west of the plan, along Summerwind extension, will tie into it, right in front of the proposed lap pool area. Mr. Lyons stated the approved MBTS master plan shows, in the red, the approved pedestrian bicycle path which is in there and in the connector road preliminary plan which is shown, there is a ten (10)-foot bike path which is attached to it, and it goes all the way down to connect the two into the lifestyle center as well as to the Summerwind Boulevard path which is currently there. Mr. Faden stated regarding the proposed ponds or swimming areas which are on here, it seems water quality issues have been an ongoing problem with the existing ponds and should be addressed with those ponds as well as these proposed ones. Mr. Faden further stated there was a request for traffic controls, such as speed bumps, particularly on the longer streets, and Mr. Faden doesn't think it's an unreasonable request to calm traffic.

Mr. Plocek stated regarding traffic calming, Mr. Plocek doesn't like speed bumps but rumble strips are better as they have the same effect but don't cause as much damage, because if a car goes over a speed bump and the car is damaged, the homeowners' association (HOA) is responsible for damages. Mr. Plocek stated he wants to make sure there is some kind of plan on the pool area before it goes to review by Council. Mr. Plocek stated regarding the landscaping plan, the trees the developer is planning to plant along the roadways are not "sidewalk friendly" because the roots have a tendency to tear up sidewalks; so Mr. Plocek would have the applicant

investigate more into the types of trees going along those sidewalks so it doesn't cause more maintenance further down the road. Ms. Botchie stated she agrees with Mr. Plocek's sentiments about the landscaping plan because they often find in these villages that trees are "overplanted," planted too close together. Ms. Botchie stated when this gets closer to final, the Town can meet with the applicant to review the trees and their planting. Ms. Botchie asked how far apart are the trees. Mr. Sutton stated forty (40) feet per the Town Code. Ms. Botchie stated that is too much and the Town is revisiting that number in its review of the Code. Ms. Botchie stated she wants residents to understand MBTS is a master plan community and the density can be extremely high. Mr. Lyons stated in the Code, it is up to eight (8) units and with the total of MBTS from the approved performance standards, the total would be four-point-two (4.2) in the area but they can go up to eight (8). Ms. Botchie stated she thinks people are misunderstanding that Peninsula Village is a high density area, but it's only two-point-seven-five (2.75), whereas Sand Dollar Village is three-point-five (3.5), and Sand Dollar Village 2 and Lakeside Village are much higher in density than Peninsula. Ms. Botchie stated she thinks the applicant has done a good job in having more open space, which the Town likes, but she realized the passive space is people's backyards; so it may be difficult to have something in that small passive space area because it may intrude on people's privacy. Ms. Botchie further stated regarding the strip under the power easement, Ms. Botchie went on-site and Mr. Hart is going to cut that area and keep it maintained; however, there is a portion which will be re-graded, but Mr. Hart will keep it maintained. Mr. Hart stated yes, on an ongoing basis.

Mr. Sutton stated he knows stormwater quality is an issue but the whole purpose of these ponds is to provide stormwater quality for runoff control; and the applicant is basically collecting runoff from streets, yards such as oils, greases, and everything running off the street into the pond. Mr. Sutton stated it provides the water quality so when they discharge to the Beaver Dam Canal Tax Ditch, they're discharging clean water and that's the purpose of these stormwater ponds. Mr. Sutton stated they are amenities but they're amenities with a function which is to provide quality and quantity control of stormwater. Mr. Sutton stated regarding the speed bumps and/or rumble strips, Mr. Sutton thinks it's premature to design those things into a subdivision which is up for review and approval because the applicant doesn't know what the issues will be yet. Mr. Sutton stated they have ideas about where to place stop signs but considering any other traffic calming devices is premature at this stage. Mr. Sutton stated regarding the trees, what he has been doing with trees in other projects is to assign an easement between the right-of-way (ROW) into people's properties and the applicant has been planting trees outside the sidewalk due to the result of sidewalks getting damaged from the root system. Mr. Sutton stated they can set up an easement, slide the tree over into the property line area, and it can also allow for other trees, so the applicant doesn't have to worry about the root systems as much.

Mr. Faden stated he would like the applicant to be in consideration of the fact when someone goes in towards the property lines of the homes there, the applicant needs to look at drain lines because roots will grow into the drain lines and it can create issues for the homeowners. Mr. Sutton stated yes, and it's the same issue if it's out on the curb, as the developer has water, sewer, gas and all the other utilities coming off the road and into the houses. Mr. Sutton stated engineers try their best to position trees which aren't going to interfere with those things, which

is why it's a good idea to walk through to decide on the placement of those trees after utilities are installed. Mr. Plocek stated the lots in front of a rumble strip will be noisy from the vehicles going over the strip and Mr. Plocek knows they need some kind of traffic calming device, but to keep this in mind when considering what kinds of devices.

D. Residents/Property Owner Comments & Questions

Mr. Wally Bartus, of Huntington Street, stated the residents of MBTS have never asked for speed bumps or rumble strips, but rather they have speed humps, which are DelDOT approved. Mr. Bartus stated, according to Mr. Chuck Ellison, when the humps were put in, they cost twelve-hundred dollars (\$1,200.00) a piece and they are a very effective and "non-car-damaging" way of calming traffic. Mr. Bartus stated now that Sea Star Village is open MBTS has a chronic problem on Huntington Street with drivers using the road as a "drag strip," driving over fifty (50) miles per hour (mph). Mr. Bartus offered the applicant to speak with one of the MBTS residents, who is a former State trooper and "traffic expert" as he was "schooled in all of this." Mr. Bartus stated his concern with the path as it's going to be changed is the residents have an entire section of Sand Dollar Village – which is on the far side of Substation Road – and in order for people to get to this, they will have to wander almost three-quarters (3/4) of the way in and do an incredible loop to get to the main amenity center. Mr. Bartus stated he would like to propose exploring some alternates for it, and Mr. Bartus is not sure the applicant is allowed to have some walking path underneath or along the power lines, but that would be a better alternative for the path. Mr. Bartus stated the mailbox kiosk is not centered. Mr. Bartus further stated regarding yard drains, MBTS has had multiple issues in Lakeside Village and Sand Dollar Village, where the swales were initially cut by the developer, and the drains were ineffective; and it should be known one of the agreements struck with the previous developer was *all* drainage is owned by the developer. Mr. Bartus asked, regarding the maintaining of trees and under the power lines, with "Sand Dollar Creek" – located right behind the small pool – there was an agreement struck with the Delaware Department of Natural Resources and Environmental Control (DNREC) that the area would be maintained and cleared once every eighteen (18) months, which has been violated more times than you can count and has had no real change. Mr. Bartus stated he knows the applicant is "coming in late to the party" but it has not happened. Mr. Bartus stated, regarding the pool, the MBTS residents here tonight cannot go forward in good faith and tell residents the it's OK the pool is only a possible potential for the future. Mr. Bartus stated there is a lot of history here, and he knows Ardent is "the new kid on the block" so they want to give the applicant some time to catch up and work on this.

Ms. Sally Griffin, of Huntington Street, stated she thinks the stormwater management ponds are beautiful as she loves seeing the wildlife and she does enjoy being backed up to a drainage ditch; however, there needs to be more review under an environmental aspect and how it's impacting the relationship between the homeowners and residents, and the pond and what it attracts. Ms. Griffin stated in MBTS particularly, it's Canada geese and the ponds are huge attractants to the geese. Ms. Griffin stated she thinks all developments need to be more in touch with the State Division of Wildlife, DNREC, etc., to discuss alternative shorelines and methods of controlling the wildlife. Ms. Griffin stated she doesn't care if there is geese waste in her yard

but she is not in the majority as others do; so, overall, any time there is stormwater management ponds in any new development, the applicant really needs to take these factors into consideration. Ms. Griffin stated the amount of aeration provided – whether it's fountains, nanobubbles, etc. – Ms. Griffin thinks new combinations need to be investigated so ponds are kept well-maintained. Ms. Griffin stated also not to forget the trail.

Mr. Paul DuCott, of Huntington Street, asked, in relation to Substation Road, if Peninsula Village is going to be on the north side of the construction road. Mr. Sutton stated yes, and some of it is running through it. Mr. DuCott stated his understanding is the power company has a one-hundred-fifty (150)-foot easement from the center of the pole, and asked if it is correct. Mr. Lyons stated yes. Mr. DuCott stated the landscaping is “near and dear to his heart” and Mr. DuCott cannot emphasize enough about avoiding monoculture, and Mr. Hart would be well-informed if Mr. Hart reached out to Jeremy Hager, who runs Coastal Plant Care and is one of the only State-certified arborists in the state. Mr. DuCott stated he can give Mr. Hager's contact information to Mr. Hart, and Mr. Hager has been doing some work for the MBTS in Sand Dollar Village, where there was monoculture put in. Mr. DuCott stated Mr. Hager will come in and explain what to put in all for free.

Ms. Cathy Scheck, of Mulberry Street, stated she agrees with the pool comments and cannot wait to see it on the site plan. Ms. Scheck asked if the RV/boat storage is now out. Mr. Plocek stated yes. Ms. Scheck stated she agrees with Ms. Griffin's comments regarding the stormwater management ponds. Ms. Scheck stated she also agrees with the centralization of the mail kiosk location. Ms. Scheck stated she also agrees with the connectivity of the trails as it's very important there is good connectivity through the different villages.

MOTION TO CLOSE PUBLIC HEARING

Mr. Gevinson motioned to close the public hearing at 8:08 p.m. Mr. Faden seconded the motion. Motion carried 4-0.

5. NEW BUSINESS

A. Discuss and possible vote on a revision to the preliminary subdivision site plan submitted by Civil Engineering Associates Inc. on behalf of Ardent Companies LLC, for the proposed Millville by the Sea's Peninsula Village subdivision located on Tax Map Parcels #134-16.00-03.02, 134-16.00-19.00, 134-16.00-20.00, and 134-15.00-121.00, zoned MPC, consisting of 46.48+/- acres.

Mr. Gevinson motioned to recommend to Council for approval the revised preliminary subdivision site plan for the proposed Millville by the Sea's Peninsula Village subdivision located on Tax Map Parcels #134-16.00-03.02, 134-16.00-19.00, 134-16.00-20.00, and 134-15.00-121.00, with the condition of having the pool area and its parking placed in detail on the final site plan; and consideration for landscaping, incorporating benches along the trail system, and placing a gazebo or pavilion-type area for residential use. Mr. Faden seconded the motion. Motion carried 3-0-1 abstention from Ms. Scheck. Ms. Scheck rejoined the meeting.

6. CITIZENS PRIVILEGE

Ms. Penney Herrel-McCormick, of Tybee Street, stated she has a concern regarding the walkway because she lives on the other side of Substation Road, on the opposite end of where “Sand Dollar Creek” is located and doesn’t get backed up. Ms. Herrel-McCormick stated it is very circuitous for her and those on her side to get up to the lifestyle center; so it’s something which really has to be reviewed.

7. ANNOUNCEMENT OF NEXT MEETING

Mr. Plocek stated the next P&Z meeting is scheduled to be on November 12, 2020.

8. ADJOURNMENT

Mr. Gevinson motioned to adjourn the meeting at 8:17 p.m. Mr. Faden seconded the motion. Motion carried 4-0.

Respectfully submitted and transcribed
by Matt Amerling, Town Clerk